

patenting is overcome by submission of the accompanying Terminal Disclaimer. Reexamination and reconsideration of claim 1, as amended, are respectfully requested.

The Examiner relies on Friedman '082, as teaching fragmented hydrogels which are substantially free from an aqueous phase. Applicants respectfully disagree.

In particular, the Examiner equates hydrolysis of the polymers of the '082 patent to the fragmented polymers of the present invention. While hydrolysis certainly results in chemical splitting of compounds, it would not be expected to produce fragmented hydrogels as called for in the present application. The compositions of the present invention are mechanically disrupted so that a controlled particle size and particle size distribution can be obtained. In order to more clearly distinguish the teachings of Friedman '082, claim 1 has been amended to recite that the hydrogel has been fragmented by mechanical disruption.

The Examiner relies on col. 8, lines 48-62 of Friedman '082, as disclosing compositions which are partially hydrated and therefore substantially free from an aqueous phase. As passage, however, is not related to the degree of hydration of any compositions, but rather describes the percentage of solvent used to dry the composition. In order to further distinguish such teachings, Applicants have amended claim 1 to further recite that the fragmented hydrogel is extrudable and present in an applicator having an extrusion orifice. Thus, claim 1 now sets forth the hydrogel in its package form. This is contrary to the teachings of Friedman '082, which discusses the presence of a drying solvent in the polymer composition which would be performed prior to any packaging.

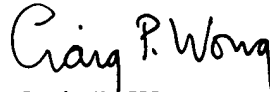
In view of the above amendments and remarks, Applicants believe that the Friedman '082 patent neither teaches nor suggests compositions of the present invention as now claimed. As the Double Patenting rejection has been overcome by the provision of a Terminal Disclaimer, Applicants believe that all rejections have now been overcome and that the application is in condition for allowance.

Attached is a marked-up version of the changes made to claim 1 by the current amendment. The attached page is captioned with "VERSION WITH MARKINGS TO SHOW CHANGES MADE."

At this time, Applicants also wish to draw the Examiner's attention to U.S. Patent No. 6,110,484, which is cited in the accompanying Information Disclosure Statement and PTO-1449.

If for any reason the Examiner believes that a telephone conference would in any way expedite prosecution of the subject application, the Examiner is invited to telephone the undersigned at 650-326-2400.

Respectfully submitted,



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Attachments: *Terminal Disclaimer*
IDS - 1449

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Please replace claim 1 currently on file with the following amended claim 1.

1. (Amended) An extrudable [A] fragmented biocompatible hydrogel which is substantially free from an aqueous phase, said hydrogel being present in an applicator having an extrusion orifice, wherein the hydrogel has been fragmented by mechanical disruption.